

Introduced by Senator Calderon

February 18, 2011

An act to add Division 8.9 (commencing with Section 22992) to the Business and Professions Code, and to amend Sections 6592 and 6901 of, to add Section 6471.5 to, and to add Article 1.7 (commencing with Section 6480.50) to Chapter 5 of Part 1 of Division 2 of, the Revenue and Taxation Code, relating to cannabis.

LEGISLATIVE COUNSEL'S DIGEST

SB 626, as introduced, Calderon. Cannabis and cannabis product: certificate: taxation.

Existing law provides for the licensure by the State Board of Equalization of manufacturers, distributors, wholesalers, importers, and retailers of cigarettes or tobacco products that are engaged in business in California, and prohibits retailers, manufacturers, distributors, and wholesalers from distributing or selling those cigarette and tobacco products unless they are licensed. Existing law also imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

This bill would create the Cannabis Certification and Regulation Act of 2011 and provide for the certification by the State Board of Equalization of growers, wholesalers, retailers, and transporters of cannabis or cannabis products that are engaged in business in California. The bill would require these certificated growers, wholesalers, retailers, and transporters to keep records of every sale, transfer, or delivery of cannabis or cannabis products, as specified. The bill would authorize any peace officer and specified employees of the board to conduct inspections, as provided. It would prohibit growers, wholesalers,

retailers, and transporters from selling or purchasing cannabis or cannabis products without a certificate.

The bill would provide for the seizure of cannabis or cannabis products that are sold or purchased in violation of specified provisions and impose specified penalties therefor, including certificate revocation or suspension, civil penalties, and criminal penalties. By imposing criminal penalties, the bill would create a state-mandated local program.

The bill would require each wholesaler to prepay the retail sales tax on its gross receipts derived from the sale of cannabis and cannabis products, as specified. This bill would create the Cannabis and Cannabis Products Compliance Fund, as specified.

This bill would require the Bureau of State Audits to conduct a performance audit and report its findings to the board and Legislature, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would specify that its provisions become operative on July 1, 2012.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Division 8.9 (commencing with Section 22992)
2 is added to the Business and Professions Code, to read:

3
4 DIVISION 8.9. CANNABIS CERTIFICATION AND
5 REGULATION ACT OF 2011

6
7 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

8
9 22992. This division shall be known, and may be cited, as the
10 Cannabis Certification and Regulation Act of 2011.

11 22992.2. The Legislature finds and declares all of the following:
12 (a) The current controversies surrounding California's medical
13 marijuana dispensaries authorized to sell medical marijuana under
14 the Compassionate Use Act, enacted by the voters in 1996, have

1 created problems for the patients, dispensaries, law enforcement,
2 and local governments. Many issues about the legal sale and
3 distribution of medical marijuana remain unaddressed.

4 (b) Although many dispensaries operate within the law, there
5 is clear evidence that some are intentionally evading taxes and
6 may be laundering illegally acquired money and illegally
7 distributing marijuana for other than medical purposes.

8 (c) The State Board of Equalization, under its sales tax authority,
9 has formally registered nearly 300 medical marijuana dispensaries
10 and issued seller's permits. It has also identified over 500
11 unregistered dispensaries.

12 (d) Local governments, in allocating the number and location
13 of dispensaries, are rightly unwilling to authorize distribution
14 centers when current state laws are not clear on how to prevent
15 unlawful activities.

16 (e) Law enforcement authorities have legitimate concerns about
17 misuse of these dispensaries as sources of illegal distribution and
18 consumption.

19 (f) Dispensaries with the best intentions do not have a clearly
20 defined legal framework for acquiring and distributing medical
21 marijuana, and are put unnecessarily at risk in the act of acquiring
22 an illegal product for legal resale.

23 (g) In 2003 the Legislature enacted the California Cigarette and
24 Tobacco Products Licensing Act of 2003 (Division 8.6
25 (commencing with Section 22970) of the Business and Professions
26 Code) to provide for the licensure by the State Board of
27 Equalization of manufacturers, distributors, and retailers of
28 cigarette and other tobacco products in California. For the first
29 time in California, the distribution and sale of cigarette and tobacco
30 products were prohibited pursuant to Division 8.6 (commencing
31 with Section 22970) of the Business and Professions Code unless
32 those involved in every aspect of the trade were licensed.

33 (h) That act authorized the state, through the State Board of
34 Equalization, to suspend or revoke the license of any licensee in
35 violation of the strict regulations governing the legal distribution
36 of tobacco products. The act established criminal penalties for
37 selling counterfeit cigarette and tobacco products, and imposed
38 fines or imprisonment for possessing, selling, or buying fraudulent
39 cigarette tax stamps.

1 (i) The primary purpose of the act was to prevent the unlawful
2 distribution of cigarettes and the loss of state tax revenue, which
3 had been declining by hundreds of millions of dollars due, in part,
4 to unlawful distributions and untaxed sales by well-organized
5 criminals.

6 (j) The act has been a success. According to a June 2006 report
7 by the State Auditor, cigarette tax compliance has improved, and
8 there was a positive effect on tax revenues from cigarettes and
9 tobacco products.

10 (k) It is the intention of the Legislature in enacting similar
11 legislation to license and control the distribution of medical
12 marijuana to do all of the following:

13 (1) Enable state and local governments to control sales and
14 distribution of marijuana in the same way the tobacco licensing
15 act has stemmed the flow of illegal tobacco products into the
16 market place.

17 (2) Increase revenue for the state and local governments.

18 (3) Provide assurances to the dispensaries that are now paying
19 sales tax that the state has an effective mechanism to collect tax
20 from their illegal competitors and shut them down if necessary.

21 (4) Enable the state to control the current legal distribution of
22 medical marijuana from the cultivator to the consumer and help
23 law enforcement authorities stop illegal sales in medical marijuana
24 dispensaries and elsewhere to minors and other individuals.

25 (5) Allow the state to prescribe secure packaging requirements
26 to carry out the intent of the division.

27 22992.4. The board shall administer a statewide program to
28 certificate sellers and transporters of cannabis or cannabis products.

29 22992.6. For purposes of this division, the following terms
30 shall have the following meanings:

31 (a) “Board” means the State Board of Equalization.

32 (b) “Cannabis” means all parts of the plant *Cannabis sativa* L.,
33 whether growing or not; the seeds thereof; the resin extracted from
34 any part of the plant; and every compound, manufacture, salt,
35 derivative, mixture, or preparation of the plant, or its seeds or resin.
36 It does not include the mature stalks of the plant, fiber produced
37 from the stalks, oil, or cake made from the seeds of the plant, any
38 other compound, manufacture, salt, derivative, mixture, or
39 preparation of the mature stalks (except the resin extracted

1 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
2 which is incapable of germination.

3 (c) “Certificate” means a cannabis seller’s certificate or cannabis
4 transporter’s certificate issued by the board pursuant to this
5 division.

6 (d) “Certificate holder” means any person holding a certificate
7 issued by the board pursuant to this division.

8 (e) “Display for sale” means the placement of cannabis or
9 cannabis products in retail stock for the purpose of selling or gifting
10 the cannabis or cannabis products. For purposes of this definition,
11 the clear and easily visible display of cannabis or cannabis products
12 shall create a rebuttable presumption that either were displayed
13 for sale.

14 (f) “Gifting” means any transfer of title or possession without
15 consideration, exchange, or barter, in any manner or by any means,
16 of cannabis or cannabis products that have been purchased for
17 resale under a certificate issued pursuant to this division if the
18 transfer occurs while the certificate is suspended or after the
19 effective date of its revocation.

20 (g) “Grower” means every person that plants, cultivates,
21 harvests, dries, or processes any cannabis or cannabis products.

22 (h) “Location” means any premises in this state where cannabis
23 or cannabis products are sold or offered for sale, or grown,
24 processed, stored, held, or possessed for the purpose of sale.

25 (i) “Notice” or “notification” means, unless as otherwise
26 provided, the written notice or notification provided to a certificate
27 holder by the board by either actual delivery to the certificate
28 holder or by first-class mail addressed to the certificate holder at
29 the address on the certificate.

30 (j) “Person” means a person, as defined in Section 6005 of the
31 Revenue and Taxation Code.

32 (k) “Retailer” means a retailer, as defined in Section 6015 of
33 the Revenue and Taxation Code, that engages in this state in the
34 retail sale of cannabis or cannabis products from a retail location.

35 (l) “Retail location” means any building from which cannabis
36 or cannabis products are sold at retail, including, but not limited
37 to, a medical cannabis dispensary that is collectively or
38 cooperatively cultivating and distributing marijuana for medical
39 purposes pursuant to Section 11362.775 of the Health and Safety
40 Code.

1 (m) “Retail sale” means a retail sale, as defined in Section 6007
2 of the Revenue and Taxation Code.

3 (n) “Sale” or “sold” means a sale, as defined in Section 6006
4 of the Revenue and Taxation Code.

5 (o) “Seller” means growers, wholesalers, and retailers of
6 cannabis or cannabis products in California, but does not mean
7 transporters of cannabis or cannabis products.

8 (p) “Transporter” means any person transporting within
9 California cannabis or cannabis products for delivery or use within
10 California.

11 (q) “Wholesaler” means every person, other than a grower, that
12 engages in this state in making sales for resale of cannabis or
13 cannabis products.

14 22992.8. The board shall administer and enforce this division
15 and may prescribe, adopt, and enforce rules and regulations relating
16 to the administration and enforcement of this division.

17 22992.10. The board may create a cannabis and cannabis
18 products certification fee compliance task force for the purpose of
19 reviewing the effects of this division and assisting in making
20 recommendations to improve tax compliance and in effectuating
21 the other purposes of the division that may include, but not be
22 limited to, representatives from the following:

23 (a) The board.

24 (b) The office of the Attorney General.

25 (c) State and local law enforcement agencies.

26 22992.12. Commencing January 1, 2013, the Bureau of State
27 Audits shall conduct a performance audit of the certification and
28 enforcement of this division, and shall report its findings to the
29 board and the Legislature by July 1, 2013. The report shall include,
30 but not be limited to, the following:

31 (a) The actual costs of the program.

32 (b) The overall effectiveness of enforcement programs.

33 (c) The appropriateness of the deposit of fines assessed pursuant
34 to this division.

35 (d) (1) A report to be submitted pursuant to this section shall
36 be submitted in compliance with Section 9795 of the Government
37 Code.

38 (2) Pursuant to Section 10231.5 of the Government Code, this
39 section is repealed on July 1, 2017.

1 22992.14. A person is not subject to the requirements of this
2 division if that person is exempt from regulation under the United
3 States Constitution, the laws of the United States, or the California
4 Constitution.

5 22992.16. Notwithstanding any other state or local law
6 governing the growing, processing, transportation, distribution, or
7 possession in this state of cannabis or cannabis products for the
8 purpose of sale, a person is prohibited from engaging in the sale
9 or transportation of cannabis or cannabis products in this state
10 without first obtaining a cannabis and cannabis products seller's
11 or transporter's certificate pursuant to this division.

12 22992.18. Any notice required by this division shall be served
13 personally or by mail. If by mail, the notice shall be placed in a
14 sealed envelope, with postage paid, addressed to the certificate
15 holder at the address as it appears in the records of the board. The
16 giving of notice shall be deemed complete at the time of deposit
17 of the notice in the United States Post Office, or a mailbox, subpost
18 office, substation or mail chute, or other facility regularly
19 maintained or provided by the United States Postal Service, without
20 extension of time for any reason. In lieu of mailing, a notice may
21 be served personally by delivering to the person to be served and
22 service shall be deemed complete at the time of delivery. Personal
23 service to a corporation may be made by delivery of a notice to
24 any person designated in the Code of Civil Procedure to be served
25 for the corporation with summons and complaints in a civil action.

26 22992.20. (a) All information and records provided to the
27 board pursuant to this division are confidential in nature and shall
28 not be disclosed by the board. Information required under this
29 division is not a public record under the California Public Records
30 Act, as described in Chapter 3.5 (commencing with Section 6250)
31 of Division 7 of Title 1 of the Government Code, and shall not be
32 open to public inspection.

33 (b) All information and records that are submitted to the board
34 by or on behalf of a grower, wholesaler, or retailer which contain
35 the name, address, or any other identifying information concerning
36 the grower, wholesaler, or retailer are confidential, and may only
37 be used by the board in the administration of board duties.

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(2) The business name, address, electronic mail address, and telephone number for each location where cannabis or cannabis products will be grown, stored, held, or sold. For any applicant whose headquarters or corporate office is at a location other than that specified in the preceding sentence, the business name, address, electronic mail address, and telephone number of the headquarters or corporate office. Citations issued to certificate holders shall be forwarded to all addresses on the certificate.

1 (3) If any other certificate, permit, or license has been issued
2 by the board or other state agency or local government to the
3 applicant, the certificate, permit, or license numbers for each
4 certificate, permit, or license in effect.

5 (4) A statement by the applicant affirming that the applicant
6 has not been convicted of a felony and has not violated and will
7 not violate or cause or permit to be violated any of the provisions
8 of this division or any rule of the board applicable to the applicant
9 or pertaining to the growing, sale, or distribution of cannabis or
10 cannabis products. If the applicant is unable to affirm this
11 statement, the application shall contain a statement by the applicant
12 of the nature of any violation or the reasons that prevent the
13 applicant from complying with the requirements with respect to
14 the statement.

15 (5) A statement by the applicant that the content of the
16 application is complete, true, and correct. Any person who signs
17 a statement pursuant to this subdivision that asserts the truth of
18 any material matter that he or she knows to be false is guilty of a
19 misdemeanor punishable by imprisonment of up to one year in a
20 county jail, or a fine of not more than one thousand dollars
21 (\$1,000), or both the imprisonment and fine.

22 (6) Signature of the applicant.

23 (7) Any other information the board may require.

24 (b) The board may investigate to determine the truthfulness and
25 completeness of the information provided in the application.

26 (c) The board shall provide electronic means for applicants to
27 submit applications for registration and renewal.

28 22993.4. (a) Each grower of cannabis or cannabis products
29 shall submit with each application or application for renewal a
30 certificate fee of one thousand three hundred dollars (\$1,300) per
31 location. The fee shall be for a calendar year and shall not be
32 prorated. An applicant that owns or controls more than one location
33 shall obtain a separate certificate for each location, but may submit
34 a single application for those certificates or renewal of those
35 certificates.

36 (b) A reasonable background check fee, as determined by the
37 board, shall be submitted by each applicant with each application
38 and, if deemed necessary, with each application for renewal.

39 22993.6. (a) The board shall issue a certificate to a grower
40 upon receipt of a completed application, payment of the fee

1 prescribed in Section 22993.4, a completed background check,
2 and a determination by the board that all other applicable
3 requirements of this division have been met. The board shall not
4 issue a certificate if any of the following applies:

5 (1) The grower or, if the grower is not an individual, any person
6 controlling the grower has previously been issued a certificate that
7 is suspended or revoked by the board for violation of any provision
8 of this division.

9 (2) The application is for a certificate or renewal of a certificate
10 for a grower whose certificate is revoked or for which revocation
11 is pending, unless either of the following occurs:

12 (A) It has been more than five years since the grower's previous
13 certificate was revoked.

14 (B) The person applying for the certificate provides the board
15 with documentation demonstrating that the applicant has acquired
16 or is acquiring the business in an arm's length transaction. For
17 purposes of this section, an "arm's length transaction" is defined
18 as a sale in good faith and for valuable consideration that reflects
19 the fair market value in the open market between two informed
20 and willing parties, neither under any compulsion to participate in
21 the transaction. A sale of the business between relatives, related
22 companies, or partners, or a sale for the primary purpose of
23 avoiding the effect of a violation or violations of state cannabis or
24 cannabis products control laws that were committed by the grower
25 is presumed not to be made at "arm's length."

26 (3) The grower or, if the grower is not an individual, any person
27 controlling the grower has been convicted of a felony.

28 (b) (1) Any grower that is denied a certificate may petition for
29 a redetermination of the board's denial of the certificate within 30
30 days after service upon that grower of the notice of the denial of
31 the certificate. If a petition for redetermination is not filed within
32 the 30-day period, the determination of denial becomes final at
33 the expiration of the 30-day period.

34 (2) Every petition for redetermination shall be in writing and
35 shall state the specific grounds upon which the petition is founded.
36 The petition may be amended to state additional grounds at any
37 time prior to the date on which the board issues its order or decision
38 upon the petition for redetermination.

39 (3) If the petition for redetermination is filed within the 30-day
40 period, the board shall reconsider the determination of the denial

1 and, if the grower has so requested in the petition, shall grant an
2 oral hearing and shall give the grower at least 10 days' notice of
3 the time and place of the hearing. The board may continue the
4 hearing as necessary.

5 (4) The order or decision of the board upon a petition for
6 redetermination shall become final 30 days after the mailing of
7 the notice.

8 22993.8. (a) Notwithstanding Sections 22993 and 22993.2,
9 the board may issue to a grower a temporary certificate with a
10 scheduled expiration date, as determined by the board.

11 (b) A temporary certificate issued pursuant to this section shall
12 be automatically terminated upon the board's issuance or denial
13 of a certificate pursuant to Section 22993.6.

14 (c) A temporary certificate issued pursuant to this section is
15 subject to the same suspension, revocation, and forfeiture
16 provisions that apply to certificates issued by the board pursuant
17 to Section 22993.6.

18
19 CHAPTER 3. CERTIFICATE FOR WHOLESALERS OF CANNABIS OR
20 CANNABIS PRODUCTS
21

22 22994. (a) Every wholesaler of cannabis or cannabis products
23 shall annually obtain and maintain a certificate to engage in the
24 sale of cannabis or cannabis products. A wholesaler of cannabis
25 or cannabis products that owns or controls more than one location
26 shall obtain a separate certificate for each location but may submit
27 a single application for all such certificates.

28 (b) Certificates shall be valid for one calendar year, unless
29 surrendered, suspended, or revoked prior to the end of the calendar
30 year, and may be renewed each year upon payment of a fee.

31 (c) The wholesaler shall conspicuously display the certificate
32 at each location in a manner visible to the public.

33 (d) A certificate issued to a wholesaler under this division is
34 only valid with respect to the wholesaler designated on the
35 certificate and may not be transferred or assigned to another
36 wholesaler. A person that obtains a certificate as a wholesaler that
37 ceases to do business as specified in the certificate, or that never
38 commenced business, or whose certificate is suspended, revoked,
39 or canceled shall immediately surrender the certificate to the board.

1 22994.2. (a) An application for a certificate or certificate
2 renewal by a wholesaler shall be in a form prescribed by the board
3 and shall include the following:

4 (1) The name, address, electronic mail address, and telephone
5 number of the applicant. If the applicant is a firm, exchange,
6 association, or corporation, the full name, address, electronic mail
7 address, and telephone number of each member of the firm or the
8 names, addresses, electronic mail addresses, and telephone numbers
9 of the officers of the exchange, association, or corporation.

10 (2) The business name, address, electronic mail address, and
11 telephone number of each location where cannabis or cannabis
12 products will be stored, held, or sold. For an applicant whose
13 headquarters or corporate office is at a location other than that
14 specified in the preceding sentence, the business name, address,
15 electronic mail address, and telephone number of the headquarters
16 or corporate office. Citations issued to certificate holders shall be
17 forwarded to all addresses on the certificate.

18 (3) If any other certificate, permit, or license has been issued
19 by the board or other state agency or local government to the
20 applicant, the certificate, permit, or license numbers for each
21 certificate, permit, or license in effect.

22 (4) A statement by the applicant affirming that the applicant
23 has not been convicted of a felony and has not violated and will
24 not violate or cause or permit to be violated any provision of this
25 division or any rule of the board applicable to the applicant or
26 pertaining to the growing, sale, or distribution of cannabis or
27 cannabis products. If the applicant is unable to affirm this
28 statement, the application shall contain a statement by the applicant
29 of the nature of any violation or the reason that prevents the
30 applicant from complying with the requirements with respect to
31 the statement.

32 (5) A statement by the applicant that the content of the
33 application is complete, true, and correct. Any person who signs
34 a statement pursuant to this subdivision that asserts the truth of
35 any material matter that he or she knows to be false is guilty of a
36 misdemeanor punishable by imprisonment of up to one year in a
37 county jail, or a fine of not more than one thousand dollars
38 (\$1,000), or both the imprisonment and fine.

39 (6) Signature of the applicant.

40 (7) Any other information the board may require.

1 (b) The board may investigate to determine the truthfulness and
2 completeness of the information provided in the application.

3 (c) The board shall provide electronic means for applicants to
4 submit applications for registration and renewal.

5 22994.4. (a) Every wholesaler of cannabis or cannabis products
6 shall submit a certificate fee of one thousand three hundred dollars
7 (\$1,300) for each location with each application and each
8 application for renewal. An applicant that owns or controls more
9 than one location shall obtain a separate certificate for each location
10 but may submit a single application for those certificates or renewal
11 of those certificates. The fee shall be for a calendar year and shall
12 not be prorated.

13 (b) A reasonable background check fee, as determined by the
14 board, shall be submitted by each applicant with each application
15 and, if deemed necessary, with each application for renewal.

16 22994.6. (a) At the discretion of the board, a certificate may
17 be issued to a wholesaler upon receipt of a completed application,
18 payment of the fee prescribed in Section 22994.4, and a completed
19 background check. The board shall not issue a certificate if any of
20 the following applies:

21 (1) The wholesaler or, if the wholesaler is not an individual,
22 any person controlling the wholesaler has previously been issued
23 a certificate that is suspended or revoked by the board for violation
24 of any provision of this division.

25 (2) The application is for a certificate or renewal of a certificate
26 for a wholesaler whose certificate is revoked or for which
27 revocation is pending, unless either of the following occurs:

28 (A) It has been more than five years since the wholesaler's
29 previous certificate was revoked.

30 (B) The person applying for the certificate provides the board
31 with documentation demonstrating that the applicant has acquired
32 or is acquiring the business in an arm's length transaction. For
33 purposes of this section, an "arm's length transaction" is defined
34 as a sale in good faith and for valuable consideration that reflects
35 the fair market value in the open market between two informed
36 and willing parties, neither under any compulsion to participate in
37 the transaction. A sale of the business between relatives, related
38 companies, or partners, or a sale for the primary purpose of
39 avoiding the effect of a violation or violations of state cannabis or

1 cannabis products control laws that were committed by the
2 wholesaler is presumed not to be made at “arm’s length.”

3 (3) The wholesaler or, if the wholesaler is not an individual,
4 any person controlling the wholesaler has been convicted of a
5 felony.

6 (b) (1) Any wholesaler that is denied a certificate may petition
7 for a redetermination of the board’s denial of the certificate within
8 30 days after service upon that wholesaler of the notice of the
9 denial of the certificate. If a petition for redetermination is not
10 filed within the 30-day period, the determination of denial becomes
11 final at the expiration of the 30-day period.

12 (2) Every petition for redetermination shall be in writing and
13 shall state the specific grounds upon which the petition is founded.
14 The petition may be amended to state additional grounds at any
15 time prior to the date on which the board issues its order or decision
16 upon the petition for redetermination.

17 (3) If the petition for redetermination is filed within the 30-day
18 period, the board shall reconsider the determination of the denial
19 and, if the wholesaler has so requested in the petition, shall grant
20 the wholesaler an oral hearing and shall give the wholesaler at
21 least 10 days’ notice of the time and place of the hearing. The
22 board may continue the hearing as necessary.

23 (4) The order or decision of the board upon a petition for
24 redetermination becomes final 30 days after the mailing of the
25 notice.

26 22994.8. (a) Notwithstanding Sections 22994 and 22994.2,
27 the board may issue to a wholesaler a temporary certificate with
28 a scheduled expiration date, as determined by the board.

29 (b) A temporary certificate issued pursuant to this section shall
30 be automatically terminated upon the board’s issuance or denial
31 of a certificate pursuant to Section 22994.6.

32 (c) A temporary certificate issued pursuant to this section is
33 subject to the same suspension, revocation, and forfeiture
34 provisions that apply to certificates issued by the board pursuant
35 to Section 22994.6.

1 CHAPTER 4. CERTIFICATES FOR RETAILERS OF CANNABIS OR
2 CANNABIS PRODUCTS
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4 22995. (a) Every retailer of cannabis or cannabis products
5 shall annually obtain and maintain a certificate under this division
6 to engage in the sale of cannabis or cannabis products in California.
7 A retailer of cannabis or cannabis products that owns or controls
8 more than one location shall obtain a separate certificate for each
9 location but may submit a single application for these certificates.

10 (b) Certificates shall be valid for a 12-month period, unless
11 surrendered, suspended, or revoked prior to the end of the calendar
12 year, and may be renewed each year upon payment of a fee.

13 (c) The retailer shall conspicuously display the certificate at
14 each location in a manner visible to the public.

15 (d) A certificate issued to a retailer under this division is only
16 valid with respect to the retailer designated on the certificate and
17 may not be transferred or assigned to another retailer. A person
18 that obtains a certificate as a retailer that ceases to do business as
19 specified in the certificate, or that never commenced business, or
20 whose certificate is suspended, revoked, or canceled shall
21 immediately surrender the certificate to the board.

22 22995.2. (a) An application for a certificate or certificate
23 renewal by a retailer shall be on a form prescribed by the board
24 and shall include the following:

25 (1) The name, address, electronic mail address, and telephone
26 number of the applicant. If the applicant is a firm, exchange,
27 association, or corporation, the full name, address, electronic mail
28 address, and telephone number of each member of the firm or the
29 names, addresses, electronic mail addresses, and telephone numbers
30 of the officers of the exchange, association, or corporation.

31 (2) The business name, address, electronic mail address, and
32 telephone number for each location where cannabis or cannabis
33 products will be grown, stored, held, or sold. For any applicant
34 whose headquarters or corporate office is at a location other than
35 that specified in the preceding sentence, the business name, address,
36 electronic mail address, and telephone number of the headquarters
37 or corporate office. Citations issued to certificate holders shall be
38 forwarded to all addresses on the certificate.

39 (3) If any other certificate, permit, or license has been issued
40 by the board or other state agency or local government to the

1 applicant, the certificate, permit, or license numbers for each
2 certificate, permit, or license in effect.

3 (4) A statement by the applicant affirming that the applicant
4 has not been convicted of a felony and has not violated and will
5 not violate or cause or permit to be violated any of the provisions
6 of this division or any rule of the board applicable to the applicant
7 or pertaining to the growing, sale, or distribution of cannabis or
8 cannabis products. If the applicant is unable to affirm this
9 statement, the application shall contain a statement by the applicant
10 of the nature of any violation or the reasons that prevent the
11 applicant from complying with the requirements with respect to
12 the statement.

13 (5) A statement by the applicant that the content of the
14 application is complete, true, and correct. Any person who signs
15 a statement pursuant to this subdivision that asserts the truth of
16 any material matter that he or she knows to be false is guilty of a
17 misdemeanor punishable by imprisonment of up to one year in a
18 county jail, or a fine of not more than one thousand dollars
19 (\$1,000), or both the imprisonment and fine.

20 (6) Signature of the applicant.

21 (7) Any other information the board may require.

22 (b) The board may investigate to determine the truthfulness and
23 completeness of the information provided in the application.

24 (c) The board shall provide electronic means for applicants to
25 submit applications for registration and renewal.

26 22995.4. (a) Every retailer of cannabis or cannabis products
27 shall submit a certificate fee of one thousand three hundred dollars
28 (\$1,300) for each location where cannabis or cannabis products
29 are stored or sold with each application and each application for
30 renewal. An applicant that owns or controls more than one location
31 shall obtain a separate certificate for each location, but may submit
32 a single application for those certificates or renewal of those
33 certificates.

34 (b) A reasonable background check fee, as determined by the
35 board, shall be submitted by each applicant with each application
36 and, if deemed necessary, with each application for renewal.

37 22995.6. (a) At the discretion of the board, a certificate may
38 be issued to a retailer upon receipt of a completed application,
39 payment of the fee prescribed in Section 22995.4, and a completed

1 background check. The board shall not issue a certificate if any of
2 the following applies:

3 (1) The retailer or, if the retailer is not an individual, any person
4 controlling the retailer has previously been issued a certificate that
5 is suspended or revoked by the board for violation of any provision
6 of this division.

7 (2) The application is for a certificate or renewal of a certificate
8 for a location that is the same location as that of a retailer whose
9 certificate was revoked or for which revocation is pending, unless
10 either of the following occurs:

11 (A) It has been more than five years since a previous certificate
12 for the location was revoked.

13 (B) The person applying for the certificate provides the board
14 with documentation demonstrating that the applicant has acquired
15 or is acquiring the premises or business in an arm's length
16 transaction. For purposes of this section, an "arm's length
17 transaction" is defined as a sale in good faith and for valuable
18 consideration that reflects the fair market value in the open market
19 between two informed and willing parties, neither under any
20 compulsion to participate in the transaction. A sale between
21 relatives, related companies, or partners, or a sale for the primary
22 purpose of avoiding the effect of violations of this division that
23 were committed by the retailer or occurred at the retail location,
24 is presumed not to be made at "arm's length."

25 (3) The retailer or, if the retailer is not an individual, any person
26 controlling the retailer has been convicted of a felony.

27 (4) The retailer does not possess all required certificates or
28 permits required under the Revenue and Taxation Code or Division
29 8.6 (commencing with Section 22970) of the this code.

30 (b) (1) Any retailer that is denied a certificate may petition for
31 a redetermination of the board's denial of the certificate within 30
32 days after service upon that retailer of the notice of the denial of
33 the certificate. If a petition for redetermination is not filed within
34 the 30-day period, the determination of denial becomes final at
35 the expiration of the 30-day period.

36 (2) Every petition for redetermination shall be in writing and
37 shall state the specific grounds upon which the petition is founded.
38 The petition may be amended to state additional grounds at anytime
39 prior to the date on which the board issues its order or decision
40 upon the petition for redetermination.

(3) If the petition for redetermination is filed within the 30-day period, the board shall reconsider the determination of the denial and, if the retailer has so requested in the petition, shall grant the retailer an oral hearing and shall give the retailer at least 10 days' notice of the time and place of the hearing. The board may continue the hearing as necessary.

(4) The order or decision of the board upon a petition for redetermination shall become final 30 days after the mailing of the notice.

22995.8. (a) Notwithstanding Sections 22995 and 22995.2, the board may issue to a retailer a temporary certificate with a scheduled expiration date, as determined by the board.

(b) A temporary certificate issued pursuant to this section shall be automatically terminated upon the board's issuance or denial of a certificate pursuant to Section 22995.6.

(c) A temporary certificate issued pursuant to this section is subject to the same suspension, revocation, and forfeiture provisions that apply to certificates issued by the board pursuant to Section 22995.6.

22995.10. Every retail sale of cannabis or cannabis products shall be made from a retail location.

CHAPTER 5. CERTIFICATE FOR TRANSPORTERS OF CANNABIS OR CANNABIS PRODUCTS

22996. (a) Every transporter that transports upon the highways, roads, or streets of this state more than 28.5 grams (one ounce) of cannabis in a single load or shipment, except a qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person under Sections 11362.7, 11362.765, and 11362.77 of the Health and Safety Code, shall annually obtain and maintain a cannabis transporter certificate authorizing the transport of cannabis and cannabis products in this state. A transporter that owns or controls more than one transport vehicle shall obtain a separate certificate for each vehicle that is used to transport cannabis or cannabis products, but may submit a single application for these certificates.

(b) A certificate issued to a transporter under this chapter is only valid with respect to the transport vehicle designated on the

1 certificate and shall not be transferred or assigned to another
2 vehicle or person.

3 (c) Certificates shall be valid for one calendar year, unless
4 surrendered, suspended, revoked, or canceled prior to the end of
5 the calendar year, and may be renewed each year upon payment
6 of the fee.

7 (d) A person that obtains a certificate as a transporter that ceases
8 to do business as specified in the certificate, or that never
9 commenced business, or whose certificate is suspended, revoked,
10 or canceled shall immediately surrender the certificate to the board.

11 22996.2. (a) An application for a certificate or certificate
12 renewal by a transporter shall be on a form prescribed by the board
13 and shall include the following:

14 (1) The name, address, telephone number, and electronic mail
15 address of the applicant. If the applicant is a firm, exchange,
16 association, or corporation, the full name, address, electronic mail
17 address, and telephone number of each member of the firm or the
18 names, addresses, electronic mail addresses, and telephone numbers
19 of the officers of the exchange, association, or corporation.

20 (2) The business name, address, telephone number, and
21 electronic mail address. Citations issued to certificate holders shall
22 be forwarded to all addresses on the certificate.

23 (3) The vehicle identification number, license plate number,
24 vehicle description, and any other identifying vehicle information
25 deemed necessary by the board.

26 (4) If any other certificate, permit, or license has been issued
27 by the board or other state agency or local government to the
28 applicant, the certificate, permit, or license numbers for each
29 certificate, permit, or license in effect.

30 (5) A statement by the applicant affirming that the applicant
31 has not been convicted of a felony and has not violated and will
32 not violate or cause or permit to be violated any provision of this
33 division or any rule of the board applicable to the applicant or
34 pertaining to the growing, sale, or distribution of cannabis or
35 cannabis products. If the applicant is unable to affirm this
36 statement, the application shall contain a statement by the applicant
37 of the nature of any violation or the reasons that prevent the
38 applicant from complying with the requirements with respect to
39 the statement.

(6) A statement by the applicant that the content of the application is complete, true, and correct. Any person who signs a statement pursuant to this subdivision that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in a county jail, or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and fine.

(7) Signature of the applicant.

(8) Any other information the board may require.

(b) The board may investigate to determine the truthfulness and completeness of the information provided in the application.

(c) The board shall provide electronic means for applicants to submit applications for registration and renewal.

22996.4. (a) Every transporter of cannabis or cannabis products shall submit a certificate fee of one thousand three hundred dollars (\$1,300) for each vehicle used to transport cannabis or cannabis products with each application and each application for renewal. An applicant that owns or controls more than one transport vehicle shall obtain a separate certificate for each transport vehicle, but may submit a single application for those certificates or renewal of those certificates. The fee shall be for a calendar year and shall not be prorated.

(b) A reasonable background check fee, as determined by the board, shall be submitted by each applicant with each application and, if deemed necessary, with each application for renewal.

22996.6. (a) At the discretion of the board, a certificate may be issued to a transporter upon receipt of a completed application, payment of the fee prescribed in Section 22996.4, and a completed background check. The board shall not issue a certificate if any of the following applies:

(1) The transporter or, if the transporter is not an individual, any person controlling the transporter has previously been issued a certificate that is suspended or revoked by the board for violation of any provision of this division, unless it has been more than five years since a previous certificate was revoked.

(2) The transporter or, if the transporter is not an individual, any person controlling the transporter has been convicted of a felony.

(b) (1) Any transporter that is denied a certificate may petition for a redetermination of the board's denial of the certificate within

1 30 days after service upon that transporter of the notice of the
2 denial of the certificate. If a petition for redetermination is not
3 filed within the 30-day period, the determination of denial becomes
4 final at the expiration of the 30-day period.

5 (2) Every petition for redetermination shall be in writing and
6 shall state the specific grounds upon which the petition is founded.
7 The petition may be amended to state additional grounds at any
8 time prior to the date on which the board issues its order or decision
9 upon the petition for redetermination.

10 (3) If the petition for redetermination is filed within the 30-day
11 period, the board shall reconsider the determination of the denial
12 and, if the transporter has so requested in the petition, shall grant
13 the transporter an oral hearing and shall give the transporter at
14 least 10 days' notice of the time and place of the hearing. The
15 board may continue the hearing as necessary.

16 (4) The order or decision of the board upon a petition for
17 redetermination shall become final 30 days after the mailing of
18 the notice.

19 22996.8. The certificate issued to the transporter shall be placed
20 in the transport vehicle for which the certificate is issued and be
21 made available upon request by an employee of the board or a law
22 enforcement agency.

23 22996.10. (a) Each transporter shall obtain from the certificate
24 holder from which the cannabis or cannabis products are received
25 a receipt or shipping document for the cannabis or cannabis
26 products transported and delivered. This receipt or shipping
27 document shall be carried with the load at all times and contain
28 the following information:

- 29 (1) Name and certificate number of shipper.
- 30 (2) Point of origin.
- 31 (3) Name of certificate holder to which delivery is made.
- 32 (4) Place of delivery.
- 33 (5) Name of transporter making delivery.
- 34 (6) A complete description of the shipment, including, but not
35 limited to, brand name, quantity, size, unit, and total weight.
- 36 (7) The number of the waybill covering the shipments.
- 37 (8) In the case of shipments by rail, the receipt shall also show
38 the car number; in the case of shipments by water, the receipt shall
39 also show the name of the vessel and the number of the steamship

1 bill of lading; and in the case of shipments by air, the receipt shall
2 also show the flight number and tail number.

3 (b) A receipt or shipping document containing all the
4 information described in subdivision (a) shall be deemed to be in
5 compliance with this requirement. A copy of the receipt or shipping
6 document must be delivered to the certificate holder to which
7 delivery is made. With respect to pool shipments in which more
8 than one certificate holder participates, the transporter shall obtain
9 a receipt or shipping document from each participating certificate
10 holder shipper and furnish a copy of the receipt or shipping
11 document to each participating certificate holder recipient.

12 22996.12. (a) Every transporter holding a certificate pursuant
13 this chapter shall file a monthly report to the board, in a manner
14 specified by the board, which may include, but is not limited to,
15 electronic media, as defined in Section 6066 of the Revenue and
16 Taxation Code. The monthly report shall include, but is not limited
17 to, the following:

18 (1) Name and certificate number of the consignor.

19 (2) Name of consignee to which delivery is made.

20 (3) A complete description of the shipment, including brand
21 name, quantity, size, unit, and total weight of the cannabis or
22 cannabis products transported.

23 (4) The date of transport.

24 (5) Bill of lading number, as defined in Section 1201 of the
25 Commercial Code.

26 (6) Any other information deemed necessary by the board.

27 (b) The board may suspend or revoke the certificate, pursuant
28 to the provisions applicable to the suspension and revocation of a
29 license set forth in Section 30148 of the Revenue and Taxation
30 Code, of any transporter that has failed to comply with the
31 requirements of this section.

32 (c) To facilitate the administration of this section, the board
33 may require the reports for periods other than monthly periods.

34 22996.14. (a) Notwithstanding Sections 22996 and 22996.2,
35 the board may issue to a transporter a temporary certificate with
36 a scheduled expiration date, as determined by the board.

37 (b) A temporary certificate issued pursuant to this section shall
38 be automatically terminated upon the board's issuance or denial
39 of a certificate pursuant to Section 22996.6.

1 (c) A temporary certificate issued pursuant to this section is
2 subject to the same suspension, revocation, and forfeiture
3 provisions that apply to certificates issued by the board pursuant
4 to Section 22996.6.

5 22996.16. For purposes of this chapter “certificate” means a
6 cannabis transporter certificate.

7 22996.18. This chapter shall not apply to any certificate holder
8 that transports, in conveyances it owns, leases, or rents in the course
9 of its business, its own cannabis or cannabis products for delivery
10 to another certificated location, another certificate holder’s location,
11 or a consumer’s location. Any certificate holder that transports its
12 own cannabis or cannabis products shall carry, at all times, a copy
13 of its cannabis seller’s certificate with the load to be delivered.

14
15 CHAPTER 6. INVOICES
16

17 22997. (a) Every sale, transfer, or delivery of cannabis or
18 cannabis products from one certificate holder to another certificate
19 holder shall be recorded on a sales invoice, whether or not
20 consideration is involved. Invoices covering the sale or purchase
21 of cannabis or cannabis products shall be filed in a manner as to
22 be readily accessible for examination by employees of the board
23 and shall not be commingled with invoices covering commodities
24 other than cannabis or cannabis products.

25 (b) Each sales invoice shall have printed on it the name and
26 address of the seller and shall show all of the following
27 information:

28 (1) Name, address, and certificate number of the seller and the
29 purchaser.

30 (2) Board-issued certificate numbers of the seller and the
31 purchaser.

32 (3) Date of sale and invoice number.

33 (4) Kind, quantity, size, and capacity of packages of cannabis
34 or cannabis products sold.

35 (5) The cost to the purchaser, together with any discount which
36 at any time is to be given on or from the price as shown on the
37 invoice.

38 (6) The place from which delivery of the cannabis or cannabis
39 products was made.

(c) Invoices covering sales of cannabis or cannabis products between certificate holders shall show, in addition to the information in subdivision (b), the total weight covered by the invoice.

(d) Each invoice for the sale of cannabis or cannabis products shall be legible and readable.

22997.2. All growers, wholesalers, and retailers subject to certification under this division shall retain invoices that meet the requirements set forth in Section 22997 for all cannabis or cannabis products purchased and sold and any other records required by the board. The invoices and records shall be maintained for a period of one year from the date of the purchase or sale at the certificate holder's location identified in the certificate, and thereafter, the invoices and records shall be made available for inspection by the board or a law enforcement agency for a period of four years.

CHAPTER 7. INSPECTIONS, PROHIBITIONS, AND PENALTIES

Article 1. Inspections, Seizures, and Forfeitures

22998. (a) (1) Any peace officer or board employee, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the requirements of this subdivision.

(2) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(3) Inspections may be conducted at any location or upon any vehicle, vessel, aircraft, or other conveyance at or upon which cannabis or cannabis products are sold, grown, stored, or transported.

(4) Inspections shall be requested or conducted no more than once in any 24-hour period.

(b) Any person that refuses to allow an inspection shall be subject to the penalties imposed pursuant to Section 22998.26.

Article 2. Prohibitions

22998.2. (a) A grower shall not sell cannabis or cannabis products to a wholesaler, retailer, or any other person that is not

1 certificated pursuant to this division or whose certificate has been
2 suspended or revoked.

3 (b) A wholesaler shall not sell cannabis or cannabis products
4 to a retailer, wholesaler, or any other person that is not certificated
5 pursuant to this division or whose certificate has been suspended
6 or revoked.

7 (c) A retailer or wholesaler shall not purchase cannabis or
8 cannabis products from a grower that is not certificated pursuant
9 to this division or whose certificate has been suspended or revoked.

10 (d) A retailer or wholesaler shall not purchase cannabis or
11 cannabis products from any person that is not certificated pursuant
12 to this division or whose certificate has been suspended or revoked.

13 (e) Each separate sale to a retailer, or by a grower, or to or by
14 a wholesaler or any other person that is not certificated as required
15 pursuant to this division, shall constitute a separate violation.

16 (f) Failure to comply with this section shall be a misdemeanor
17 subject to penalties pursuant to Section 22998.26.

18
19 Article 3. Seizure for Violating Prohibitions
20

21 22998.4. (a) Notwithstanding any other provision of this
22 division, upon discovery by the board or a law enforcement agency
23 that a grower, wholesaler, retailer, or any other person has made
24 a purchase or sale of cannabis or cannabis products in violation of
25 Section 22998.2 or subdivision (d) of Section 22998.16, or an
26 uncertificated person is in possession of more than 28.5 grams
27 (one ounce), or in possession of products containing more than
28 28.5 grams (one ounce) of cannabis, or in possession of both
29 cannabis and products containing cannabis which together total
30 more than 28.5 grams (one ounce) of cannabis, except a person
31 holding a valid identification card, or the designated primary
32 caregiver of that qualified patient or person pursuant to Sections
33 11362.7, 11362.765, and 11362.77 of the Health and Safety Code,
34 the board or the law enforcement agency shall be authorized to
35 seize all cannabis or cannabis products at the grower's,
36 wholesaler's, or retailer's location, or any other location it deems
37 necessary, or at any other person's location.

38 (b) Notwithstanding any other provision of this division, upon
39 discovery by the board or a law enforcement agency that a
40 transporter of cannabis or cannabis products is in violation of

1 Section 22996, the board or the law enforcement agency shall be
2 authorized to seize all cannabis or cannabis products in the
3 possession or control of the person or persons in the transport
4 vehicle, vessel, aircraft, or other conveyance.

5 (c) Notice of the seizure of the cannabis or cannabis products
6 as described in subdivision (a) shall be given by the board as
7 follows:

8 (1) Notice shall be given as set forth in Section 22992.18 to all
9 persons known by the board to have any right, title, or interest in
10 the property.

11 (2) The board shall include a notice of the seizure of 2,000 grams
12 or more of cannabis or cannabis products on its Internet Web site
13 for a period of six months from the notice of seizure.

14 (3) Notice shall include a description of the cannabis, cannabis
15 products, or cannabis and cannabis products, the reason for the
16 seizure, and the time and place of the seizure.

17 (d) Within 30 days from the date of the mailing of the board's
18 notice of seizure or, if no notice was mailed to a person, 30 days
19 from the date of publication of the notice, any person owning or
20 claiming a right, title, or interest in the cannabis or cannabis
21 products seized may file an action against the board in the Superior
22 Court of the County of Sacramento for the release or recovery of
23 the cannabis or cannabis products on the ground that the cannabis
24 or cannabis products were erroneously or illegally seized. The
25 failure of the person to file a timely action shall constitute a bar
26 to that person's right to any interest in the cannabis or cannabis
27 products. The court shall determine whether the seizure of the
28 cannabis or cannabis products was in accordance with law and
29 shall enter an appropriate order for the disposition of the cannabis
30 or cannabis products.

31 22998.6. Any grower, wholesaler, or retailer that fails to display
32 a license as required by this division shall, in addition to any other
33 applicable penalty, be liable for a penalty of one thousand dollars
34 (\$1,000).

35 22998.8. (a) Any transporter that fails or refuses to make
36 available a cannabis transporter certificate or a receipt for the
37 cannabis or cannabis products being transported upon request by
38 the board or law enforcement agency shall be liable for a penalty
39 of ten thousand dollars (\$10,000).

1 (b) Any transporter that fails to retain a cannabis transporter
2 certificate in a vehicle so certificated, as required by Section
3 22996.8, shall be liable for a penalty of ten thousand dollars
4 (\$10,000).

5
6 Article 4. Invoicing Penalties
7

8 22998.10. (a) Failure of a certificate holder to comply with
9 Section 22997 or 22997.2 shall be a misdemeanor subject to
10 penalties pursuant to Section 22998.26.

11 (b) Any retailer found in violation of Section 22997 or 22997.2,
12 or any person that fails, refuses, or neglects to retain or make
13 available invoices for inspection and copying during normal
14 business hours in accordance with this section shall be subject to
15 penalties pursuant to Section 22998.26.

16
17 Article 5. Penalty for Sales by Persons Not Certificated
18

19 22998.12. (a) A person or entity that engages in the business
20 of selling or transporting cannabis or cannabis products in this
21 state either without a valid certificate or after a certificate has been
22 suspended or revoked, and each officer of any corporation that
23 engages in this business, is guilty of a misdemeanor punishable as
24 provided in Section 22998.26.

25 (b) Each day after notification by the board or by a law
26 enforcement agency that a grower, wholesaler, retailer, or any
27 other person required to be certificated under this division offers
28 cannabis or cannabis products for sale or exchange without a valid
29 certificate for the location from which they are offered for sale
30 shall constitute a separate violation.

31 (c) Continued sales or gifting of cannabis or cannabis products
32 either without a valid certificate or after a notification of suspension
33 or revocation shall constitute a violation punishable as provided
34 in Section 22998.26, and shall result in the seizure of all cannabis
35 and cannabis products in the possession of the person by the board
36 or a law enforcement agency. Any cannabis or cannabis products
37 seized by the board or delivered to the board by a law enforcement
38 agency shall be deemed forfeited and destroyed.

1 Article 6. Suspension or Revocation Penalty

2
3 22998.14. The board may suspend the certificate or revoke the
4 certificate, pursuant to the provisions applicable to the revocation
5 of a license set forth in Section 30148 of the Revenue and Taxation
6 Code, of any certificate holder that has failed to comply with the
7 requirements of this section.

8 22998.16. The board shall revoke the certificate, pursuant to
9 the provisions applicable to the revocation of a license as set forth
10 in Section 30148 of the Revenue and Taxation Code, of any
11 certificate holder if the certificate holder or any person controlling
12 the certificate holder has done either of the following:

13 (a) Been convicted of a felony.

14 (b) Allowed any license or permit to be revoked under any
15 provision of the Revenue and Taxation Code or Division 8.6
16 (commencing with Section 22970) of this code.

17 22998.18. In addition to any other civil or criminal penalty
18 provided by law, upon a finding that a certificate holder has
19 violated any provision of this division, the board may take the
20 following actions:

21 (a) In the case of any offense, the board may revoke or suspend
22 the certificate or certificates of the certificate holder pursuant to
23 the procedures applicable to the revocation of a certificate set forth
24 in Section 30148 of the Revenue and Taxation Code.

25 (b) In addition to the action authorized under subdivision (a),
26 the board may impose a civil penalty in an amount not to exceed
27 the greater of either of the following:

28 (1) Five times the retail value of the seized cannabis or cannabis
29 products.

30 (2) Ten thousand dollars (\$10,000).

31 22998.20. (a) Certificates issued pursuant to this division shall
32 be subject to suspension or revocation for violations of this division
33 or Part 1 (commencing with Section 6001) of Division 2 of the
34 Revenue and Taxation Code.

35 (1) In addition to any applicable fines or penalties for a violation,
36 upon first conviction of a violation, a certificate holder shall receive
37 a written notice from the board detailing the suspension and
38 revocation provisions of this division. At its discretion, the board
39 may also suspend a certificate for up to 30 days.

1 (2) In addition to any applicable fines or penalties for a violation,
2 upon a second conviction of a violation within four years of a
3 previous violation, the certificate shall be revoked.

4 (b) The date of the occurrence of a violation shall be used to
5 calculate the duration between subsequent violations. A violation
6 shall be noted in the certificate record at the board only after
7 judicial conviction or final adjudication of a violation.

8 (c) Upon updating a record for a violation triggering a
9 suspension, the board shall serve the certificate holder with a notice
10 of suspension and shall order the certificate holder to cease the
11 sale, gifting, or displaying for sale of cannabis or cannabis products
12 for the period of the suspension. The notice of suspension shall
13 inform the certificate holder of the effective dates of the suspension.

14 (d) Continued sales, transportation, or gifting of cannabis or
15 cannabis products after the effective date of the suspension shall
16 constitute a violation of this division and result in the revocation
17 of a certificate.

18 (e) Upon updating a record for a violation triggering a
19 revocation, the board shall serve the certificate holder with a notice
20 of revocation and shall order the certificate holder to cease the
21 sale, gifting, or displaying for sale of cannabis or cannabis products
22 on and after the effective date of the revocation. The notice of
23 revocation shall inform the certificate holder of the effective date
24 of the revocation.

25 (f) After a revocation, a previously certificated applicant may
26 apply for a new certificate after six months. The board may, at its
27 discretion, issue a new certificate.

28 (g) Upon updating a certificate record for a violation,
29 suspension, or revocation of a certificate of a person or entity that
30 owns or controls more than one location, the board shall send
31 notice in writing of the violations, suspensions, or revocations
32 within 15 days of the board's action to the address included in the
33 application and listed on the certificate for receipt of
34 correspondence or notices from the board.

35 (h) Upon suspension or revocation of a certificate pursuant to
36 this section, the board shall notify all certificate holders by
37 electronic mail within 48 hours of the suspension or revocation of
38 that certificate. All certificate holders shall provide the board and
39 shall update, as necessary, an electronic mail address that the board

1 can use for purposes of making the notifications required by this
2 subdivision.

3 (i) Violations by a certificate holder at one location may not be
4 accumulated against other locations of that same certificate holder.
5 Violations accumulated against a prior owner at a certificated
6 location may not be accumulated against a new owner at the same
7 certificated location.

8 (j) For purposes of this section, a violation includes violations
9 of Part 1 (commencing with Section 6001) of Division 2 of the
10 Revenue and Taxation Code relating to cannabis and cannabis
11 products, and violations of this division. Only one violation per
12 discrete action shall be counted toward a suspension or revocation
13 of a certificate.

14 22998.22. A person that, after receiving a notice of suspension
15 or revocation, continues to display for sale or transport cannabis
16 or cannabis products shall be subject to a civil penalty of
17 twenty-five thousand dollars (\$25,000) for each offense, and shall
18 not be subject to Section 22998.26.

19 20 Article 7. Notice of Suspension or Revocation

21
22 22998.24. (a) A retailer whose certificate has been suspended
23 or revoked by order of the board shall conspicuously post a notice
24 at both of the following locations:

25 (1) Each public entrance to the retail location. The notice shall
26 directly face any person who enters the retail location and shall
27 not be obstructed from view or placed at a height of less than four
28 feet or greater than nine feet from the floor.

29 (2) Each cash register and other point of retail sale. The notice
30 shall be posted to be readily viewable by a person standing at or
31 approaching the cash register or other point of retail sale. The
32 notice shall directly face the purchaser and shall not be obstructed
33 from view or placed at a height of less than four feet or greater
34 than nine feet from the floor.

35 (b) The notices described in this section shall be in the size and
36 form prescribed by the board. The notice shall be provided by the
37 board and may be reproduced in the same size and form in order
38 to comply with subdivision (a).

1 (c) A retailer whose certificate was suspended shall post the
2 notice at the retail location that was the subject of the suspension
3 for the duration of the suspension.

4 (d) A retailer whose certificate was revoked shall post the notice
5 at the retail location that was the subject of the revocation for a
6 30-day period from the effective date of the revocation.

7 (e) Every retailer that fails to post the notices as required by
8 this section, that alters the notice provided by the board, or that
9 removes the notice before the posting period required in
10 subdivision (c) or (d), as appropriate, expires, shall be subject,
11 notwithstanding Section 22998.26, to a civil penalty of one
12 thousand dollars (\$1,000) for each offense.

13
14 Article 8. Criminal Penalty

15
16 22998.26. Any violation of this division by any person, except
17 as otherwise provided, is a misdemeanor. Each offense shall be
18 punished by a fine not to exceed fifty thousand dollars (\$50,000),
19 or imprisonment not exceeding one year in a county jail, or both
20 the fine and imprisonment. The court shall order that fine assessed
21 be deposited in the Cannabis and Cannabis Products Compliance
22 Fund.

23
24 Article 9. Miscellaneous

25
26 22998.28. (a) Every person that engages in the sale or
27 transportation for sale of cannabis or cannabis products in this
28 state shall obtain and maintain a cannabis and cannabis products
29 seller's or transporter's certificate pursuant to this division.

30 (b) It shall be rebuttably presumed that a person that is in
31 possession of more than 28.5 grams (one ounce) of cannabis, or
32 in possession of products containing more than 28.5 grams (one
33 ounce) of cannabis, or in possession of both cannabis and products
34 containing cannabis which together total more than 28.5 grams
35 (one ounce) of cannabis, except a person holding a valid
36 identification card, or the designated primary caregiver of that
37 qualified patient or person pursuant to Sections 11362.7,
38 11362.765, and 11362.77 of the Health and Safety Code, is engaged
39 in the sale or transportation for sale of cannabis or cannabis
40 products.

(c) The board or other law enforcement agency may, in its discretion, also consider, with respect to the circumstances in which the cannabis or cannabis products are discovered, the equipment with which it is found, the place it is found, and the manner of packaging in determining if the person in possession of the cannabis or cannabis products is engaged in the sale or transportation for sale of cannabis or cannabis products.

(d) Notwithstanding subdivision (b), a person who is discovered at his or her private residence to be in possession of an amount of cannabis in excess of 28.5 grams (one ounce) shall not be presumed to be engaging in the sale or transportation for sale of cannabis or cannabis products.

22998.30. Any prosecution for a violation of any of the penal provisions of this division shall be instituted within four years after the commission of the offense.

22998.32. The provisions of Chapter 4 (commencing with Section 55121) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the collection of the fees, civil fines, and penalties imposed pursuant to this division.

22998.34. The board may cancel or revoke any certificate which has been issued erroneously or issued based on erroneous or false statements.

22998.36. (a) Any report, application, declaration, statement, or other document required to be made under this division that is filed using electronic media shall be filed and authenticated pursuant to any method or form the board may prescribe.

(b) Notwithstanding any other law, any report, application, declaration, statement, or other document otherwise required to be signed that is filed by the taxpayer using electronic media in a form as required by the board shall be deemed to be a signed, valid original document, including upon reproduction to paper form by the board.

(c) Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, facsimile machine, or telephone.

CHAPTER 8. DISPOSITION OF FUNDS

22999. (a) All moneys collected pursuant to this division shall be deposited in the Cannabis and Cannabis Products Compliance

1 Fund, which is hereby created in the State Treasury. Moneys in
2 the Cannabis and Cannabis Products Compliance Fund shall not
3 be used to supplant state or local general fund money for any
4 purpose.

5 (b) All moneys in the Cannabis and Cannabis Products
6 Compliance Fund are available for expenditure, upon appropriation
7 by the Legislature, solely for reimbursing the board for its
8 administrative costs to implement, enforce, and administer this
9 division with respect to the purpose for which the money was
10 collected.

11 22999.2. The board shall adjust the cannabis certificate fees
12 annually to ensure that the aggregate amount of fees is equal to
13 the amount necessary to fund the board's administration and
14 enforcement of this division.

15 SEC. 2. Section 6471.5 is added to the Revenue and Taxation
16 Code, to read:

17 6471.5. Any person required to make prepayment pursuant to
18 Article 1.7 (commencing with Section 6480.50) may not be
19 required to make additional prepayment pursuant to this article,
20 provided that more than 75 percent of the gross receipts of that
21 person are from the retail sale of cannabis or cannabis products.

22 SEC. 3. Article 1.7 (commencing with Section 6480.50) is
23 added to Chapter 5 of Part 1 of Division 2 of the Revenue and
24 Taxation Code, to read:

25
26 Article 1.7. Prepayment of Sales Tax on Cannabis and Cannabis
27 Products
28

29 6480.50. (a) For purposes of the imposition of the prepayment
30 of sales tax on cannabis and cannabis products pursuant to this
31 article, the term "cannabis" is defined pursuant to Chapter 1
32 (commencing with Section 22992) of Division 8.9 of the Business
33 and Professions Code.

34 (b) "Wholesaler" includes every person making sales, other
35 than retail sales, of cannabis or cannabis products. "Wholesaler"
36 does not include any person making sales of cannabis or cannabis
37 products at retail in the capacity of an operator of a medical
38 cannabis dispensary or any other retail establishment.

39 (c) With respect to cannabis and cannabis products, "sale" means
40 the transfer of title or possession, exchange, or barter, conditional

1 or otherwise, in any manner or by any means whatsoever, of
2 cannabis or cannabis products to a purchaser for a consideration.
3 If the board determines it necessary for the timely and effective
4 collection of sales tax, it may require growers, wholesalers,
5 transporters, and retailers to package medical marijuana in a secure
6 manner, as prescribed by the board.

7 6480.51. (a) At any time that cannabis or cannabis products
8 are sold in this state, the wholesaler shall prepay the retail sales
9 tax on its gross receipts derived from that sale of cannabis or those
10 cannabis products. Each wholesaler shall report and pay the
11 prepayment amounts to the board, in a form as prescribed by the
12 board, in the period in which the cannabis or cannabis products
13 are sold. The prepayment amounts shall be collected by the
14 wholesaler from the purchaser to which the cannabis or cannabis
15 products are sold. The prepayment amount constitutes a debt owed
16 by the wholesaler to this state until paid to the board, until
17 satisfactory proof has been submitted to prove that the retailer of
18 the cannabis or cannabis products has paid the retail sales tax to
19 the board, or until a wholesaler that has consumed the cannabis or
20 cannabis products has paid the use tax to the board on the sales
21 price of the amount consumed. On any subsequent sale of that
22 cannabis or cannabis product, each wholesaler shall collect from
23 its purchaser a prepayment computed using the combined rate
24 specified in subdivision (e) of the gross receipts from that sale.

25 (b) (1) Each wholesaler shall provide its purchaser with an
26 invoice for or other evidence of the collection of the prepayment
27 amounts, which shall be separately stated on the invoice.

28 (2) Each wholesaler shall report to the board, in a form as
29 prescribed by the board and for the period in which the cannabis
30 and cannabis products were sold, all of the following:

31 (A) The amount of cannabis and cannabis products sold, the
32 gross receipts derived from the sale, and the amount of sales tax
33 prepayments collected by the wholesaler.

34 (B) The amount of tax-paid cannabis and cannabis products
35 purchased, the sales price of that amount, and the amount of sales
36 tax prepayments made by the wholesaler.

37 (C) If the amount of sales tax prepayments collected by the
38 wholesaler is greater than the amount of sales tax prepayments
39 made by the wholesaler, then the excess constitutes a debt owed
40 by the wholesaler to the state until paid to the board, or until

1 satisfactory proof has been submitted that the retailer of the
2 cannabis or cannabis products has paid the tax to the board.

3 (c) A wholesaler that pays the prepayment and issues a resale
4 certificate to the seller, but subsequently consumes the cannabis
5 or cannabis product, shall be entitled to a credit against its sales
6 and use taxes due and payable for the period in which the
7 prepayment was made, provided that it reports and pays the use
8 tax to the board on the consumption of that cannabis or cannabis
9 product.

10 (d) The amount of a prepayment paid by the retailer or a
11 wholesaler that has consumed the cannabis and cannabis products
12 to the seller from which it acquired the cannabis and cannabis
13 products shall constitute a credit against its sales and use taxes due
14 and payable for the period in which the sale was made. Failure of
15 the wholesaler to report prepayments or a wholesaler's failure to
16 comply with any other duty under this article shall not constitute
17 grounds for denial of the credit to the retailer or wholesaler, either
18 on a temporary or permanent basis or otherwise. To be entitled to
19 the credit, the retailer or wholesaler shall retain for inspection by
20 the board any receipts, invoices, or other documents showing the
21 amount of sales tax prepaid to its wholesaler, together with the
22 evidence of payment.

23 (e) The rate of the prepayment required to be collected shall be
24 the combined rate of tax imposed pursuant to this part, Part 1.5
25 (commencing with Section 7200) and Section 35 of Article XIII
26 of the California Constitution on all sales of cannabis or cannabis
27 products sold by wholesalers in this state.

28 6480.52. (a) If the board determines that it is necessary for
29 the efficient administration of this part, the board may require a
30 wholesaler to provide the board with a list of purchasers to which
31 the cannabis or cannabis products were sold.

32 (b) In addition to any other reports required under this article,
33 the board may, by rule and otherwise, require additional, other, or
34 supplemental reports, in any form which the board may require,
35 from wholesalers with respect to their sales of cannabis or cannabis
36 products, which shall include, but not be limited to, the name of
37 the purchaser, the number of the purchaser's certificate issued
38 pursuant to Division 8.9 (commencing with Section 22992) of the
39 Business and Professions Code, a description of the product sold,
40 including the weight of the cannabis included in each sale, the date

1 of each sale, and the gross receipts derived from each sale of
2 cannabis or cannabis product.

3 (c) Any wholesaler that fails to comply with this section is guilty
4 of a misdemeanor punishable as provided in Section 7153.

5 6480.53. The wholesaler shall file its prepayment form together
6 with a remittance of the prepayment amounts, if any, required to
7 be collected pursuant to Section 6480.51 payable to the State Board
8 of Equalization, on or before the last day of the month following
9 the monthly period to which the prepayment form or each
10 prepayment relates.

11 6480.54. (a) Any wholesaler that fails to make a timely
12 remittance to the board of the prepayment amounts, if any, required
13 pursuant to Sections 6480.51 and 6480.53 shall also pay a penalty
14 of 10 percent of the amount of the prepayment due but not paid,
15 plus interest at the modified adjusted rate per month, or fraction
16 thereof, established pursuant to Section 6591.5, from the date the
17 prepayment became due and payable to the state until the date of
18 payment.

19 (b) The penalty amount specified in subdivision (a) shall be 25
20 percent if the wholesaler knowingly or intentionally fails to make
21 a timely remittance.

22 6480.55. (a) The following persons that have paid prepayment
23 amounts either directly to the board or to the person from which
24 the cannabis or cannabis products were purchased shall be refunded
25 those amounts:

26 (1) Any person that exports the cannabis or cannabis products
27 for subsequent sale outside this state.

28 (2) Any person that sells cannabis or cannabis products the sale
29 of, or the storage, use, or other consumption of which is exempt
30 from sales or use tax pursuant to Sections 6352, 6381, and 6396.

31 (3) Any person that has lost the cannabis or cannabis products
32 through fire, flood, theft, spillage, or accident, prior to any retail
33 sale.

34 (4) Any person that is unable to collect the prepayment from
35 the purchaser insofar as the sales of the cannabis and cannabis
36 products are represented by accounts which have been found to
37 be worthless and charged off for income tax purposes, or, if the
38 person is not required to file income tax returns, accounts which
39 have been charged off in accordance with generally accepted
40 accounting principles. If partial payments have been made, the

1 payments shall be prorated between amounts due for the sale of
2 cannabis or cannabis products and the amounts due for the related
3 prepayment. If any of those accounts are thereafter in whole or in
4 part collected by the seller, the gross receipts derived from the
5 cannabis or cannabis products represented by the amounts collected
6 shall be included in the first return filed after that collection and
7 the amount of the prepayment thereon paid with the return.

8 (b) In lieu of a refund, the board may authorize a credit to be
9 taken by the person to whom the refund is due upon his or her
10 prepayment form or sales and use tax return.

11 6480.56. (a) The board may require any wholesaler subject to
12 this article to place with the board any security that the board
13 determines is necessary to ensure compliance with this article. The
14 amount of the security shall be fixed by the board but shall not be
15 greater than three times the estimated average liability of
16 wholesalers required to file returns for monthly periods, determined
17 in any manner that the board deems proper, or five hundred
18 thousand dollars (\$500,000), whichever amount is less. These
19 amounts apply regardless of the type of security placed with the
20 board. The amount of the security may be increased or decreased
21 by the board subject to the maximum amounts.

22 (b) The board may sell the security at public auction if it
23 becomes necessary to so do in order to recover any tax or any
24 amount required to be collected or penalty due. Notice of the sale
25 may be served upon the person that placed the security personally
26 or by mail. If service is by mail, service shall be made in the
27 manner prescribed for service of a notice of a deficiency
28 determination and shall be addressed to the person's address as it
29 appears in the records of the board. However, security in the form
30 of a bearer bond issued by the United States or the State of
31 California which has a prevailing market price may be sold by the
32 board at a private sale at a price not lower than the prevailing
33 market price thereof. Upon any sale, any surplus above the amounts
34 due shall be returned to the wholesaler that placed the security.

35 SEC. 4. Section 6592 of the Revenue and Taxation Code is
36 amended to read:

37 6592. (a) If the board finds that a person's failure to make a
38 timely return or payment is due to reasonable cause and
39 circumstances beyond the person's control, and occurred
40 notwithstanding the exercise of ordinary care and the absence of

1 willful neglect, the person shall be relieved of the penalties
2 provided by Sections 6476, 6477, 6479.3, 6480.4, 6480.8, 6480.54,
3 6511, 6565, 6591, 7051.2, 7073, and 7074.

4 (b) Except as provided in subdivision (c), any person seeking
5 to be relieved of the penalty shall file with the board a statement
6 under penalty of perjury setting forth the facts upon which he or
7 she bases his or her claim for relief.

8 (c) The board shall establish criteria that provides for efficient
9 resolution of requests for relief pursuant to this section.

10 SEC. 5. Section 6901 of the Revenue and Taxation Code is
11 amended to read:

12 6901. (a) If the board determines that any amount, penalty, or
13 interest has been paid more than once or has been erroneously or
14 illegally collected or computed, the board shall set forth that fact
15 in the records of the board and shall certify the amount collected
16 in excess of the amount legally due and the person from whom it
17 was collected or by whom paid. The excess amount collected or
18 paid shall be credited by the board on any amounts then due and
19 payable from the person from whom the excess amount was
20 collected or by whom it was paid under this part, and the balance
21 shall be refunded to the person, or his or her successors,
22 administrators, or executors, if a determination by the board is
23 made in any of the following cases:

24 (a)
25 (1) Any amount of tax, interest, or penalty was not required to
26 be paid.

27 (b)
28 (2) Any amount of prepayment of sales tax, interest, or penalty
29 paid pursuant to Article 1.5 (commencing with Section 6480), *or*
30 *Article 1.7 (commencing with Section 6480.50)*, of Chapter 5 was
31 not required to be paid.

32 (c)
33 (3) Any amount that is approved as a settlement pursuant to
34 Section 7093.5.

35 ~~Any~~
36 (b) Any overpayment of the use tax by a purchaser to a retailer
37 ~~who that~~ is required to collect the tax and ~~who that~~ gives the
38 purchaser a receipt therefor pursuant to Article 1 (commencing
39 with Section 6201) of Chapter 3 shall be credited or refunded by
40 the state to the purchaser. Any proposed determination by the board

1 pursuant to this section with respect to an amount in excess of fifty
2 thousand dollars (\$50,000) shall be available as a public record
3 for at least 10 days prior to the effective date of that determination.

4 SEC. 6. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.

13 SEC. 7. This act shall become operative on July 1, 2012.